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Human rights situations that require the Council's attention

Albania, Andorra,* Australia,* Austria,* Belgium, Bulgaria,* Canada,* Croatia, Cyprus,* Czechia,* Denmark,* Estonia,* Finland,* France,* Georgia, Germany, Greece,* Hungary, Iceland,* Ireland,* Italy,* Latvia, Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Monaco,* Montenegro,* Netherlands, New Zealand,* Norway,* Poland,* Portugal, Romania,* Slovakia,* Slovenia, Spain,* Sweden,* Ukraine,* United Kingdom of Great Britain and Northern Ireland: draft resolution

36/... Situation of human rights in Burundi

The Human Rights Council,

Guided by the principles and purposes of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the International Covenants on Human Rights and other relevant international human rights instruments,

Recalling also General Assembly resolution 60/251 of 15 March 2006 and Human Rights Council resolution 5/1 of 18 June 2007,

Recalling further Human Rights Council resolutions 30/27 of 2 October 2015, S-24/1 of 17 December 2015 and 33/24 of 30 September 2016,

Recalling Security Council resolutions 2248 (2015) of 12 November 2015, 2279 (2016) of 1 April 2016 and 2303 (2016) of 29 July 2016,

Reaffirming that States have the primary responsibility for the promotion and protection of all human rights and fundamental freedoms,

Stressing the primary responsibility of the Government of Burundi for ensuring security in its territory and protecting its population with respect for the rule of law, human rights and international humanitarian law, as applicable,

Reaffirming its strong commitment to the sovereignty, political independence, territorial integrity and unity of Burundi,

* State not a member of the Human Rights Council.

Reaffirming also the Arusha Agreement, which has been the basis for the Constitution of Burundi, and provides the foundation for peacebuilding, national reconciliation and the strengthening of democracy and the rule of law,

Considering that the international community, including the Human Rights Council, can play an important and helpful role in preventing the further deterioration of the human rights situation in Burundi by taking action in the light of serious human rights violations and abuses and the risk of dangerous escalation of violence ,

Recognizing the importance of the prevention of human rights violations and abuses in Burundi, especially in the context of past mass atrocities in the region,

Expressing grave concern about persistent violence and the serious human rights violations and abuses in Burundi,

Expressing concern about the current political situation, and stressing the need for a genuine, inclusive inter-Burundian dialogue, based on respect for the Constitution and the Arusha Agreement, and welcoming in this regard the political dialogue for Burundi under the auspices of the Facilitator of the East African Community, Benjamin William Mkapa, and the mediation of President Yoweri Museveni, and the report prepared by Mr. Mkapa that was adopted by the Heads of State at the Summit of the East African Community on 20 May 2017, in Dar es Salaam, the United Republic of Tanzania,

Noting with appreciation the repeated efforts made by the international community to obtain a peaceful solution to the crisis facing Burundi, including those by the African Union, the East African Community, the African Commission on Human and Peoples' Rights, the Peacebuilding Commission, the Special Envoy of the Secretary-General for Burundi and the European Union,

Recalling the recent report of the Secretary-General on Burundi[1] and the observations and recommendations contained therein, including those on urgent measures to ensure accountability and prevent impunity,

Recalling also the Security Council press statement of 13 March 2017, in which its members voiced their deep concern about the political situation in Burundi and the increasing number of refugees leaving the country, and the statement by the President of the Security Council on 2 August 2017,[2] in which the Council urged the Government of Burundi to reengage with international partners, especially the United Nations, in a constructive manner based on mutual trust, and calls upon the Government to cooperate with the Commission of Inquiry on Burundi mandated under Human Rights Council resolution 33/24 of 30 September 2016,

Noting the African Commission on Human and Peoples' Rights resolution 357 of 4 November 2016on the human rights situation in Burundi, in which the Commission condemned the various human rights violations and abuses committed in the country since April 2015, and called upon the Government to, inter alia, cooperate fully with all regional and international human rights institutions,

Noting also the grave concern at the human rights situation in Burundi expressed by the Committee on the Elimination of Racial Discrimination on 28 November 2016, under its early warning and urgent action procedure,

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[1] S/2017/165

[2] S/PRST/2017/15

Noting further the letter dated 6 March 2017 from the Special Adviser on the Prevention of Genocide addressed to the Security Council, in which he warned of the risks of mass violence in Burundi,

Deploring the suspension of cooperation by the Government of Burundi with the United Nations High Commissioner for Human Rights, and reiterating the need for the continuous and unhindered monitoring of the human rights situation in Burundi by the Office of the High Commissioner,

Noting the formal notification by the Government of Burundi to withdraw from the Rome Statute, and emphasizing the need to ensure that all those responsible for violations of international humanitarian law or violations and abuses of international human rights law are held to account through appropriate, fair and independent criminal justice mechanisms, while noting the important role that the International Criminal Court can play in this regard,

Deploring the decision by the Government of Burundi to declare persona non grata the three members of the independent investigation on Burundi, established by the Human Rights Council — Pablo de Greiff, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Christof Heyns, former Special Rapporteur on extrajudicial, summary or arbitrary executions, and Maya Sahli-Fadel, African Commission on Human and Peoples' Rights Special Rapporteur on refugees, asylum seekers, migrants and internally displaced persons — in retaliation for their report to the Council at its thirty-third session,[1]

Recalling the duty of the Government of Burundi to protect diplomatic staff and premises, and to investigate all threats against diplomatic missions in a thorough and transparent manner,

Welcoming the work of the Commission of Inquiry on Burundi, taking note of its report and deploring the refusal by the Government of Burundi to cooperate with the Commission by, inter alia, denying it access to the country,

Stressing that restrictions on fundamental freedoms and violations and abuses of human rights have significant repercussions on the security, economic and humanitarian situation in Burundi,

Reaffirming the commitment by States Members of the Human Rights Council to cooperate with international human rights mechanisms,

1. *Expresses its deep concern* about the continuing serious human rights situation and the worsening economic and humanitarian situation in Burundi, which affect, in particular, women and children;

2. *Strongly condemns* all human rights violations and abuses in Burundi by all actors, particularly those involving arbitrary arrests and detentions, including cases involving children, cases of torture and other cruel, inhuman and/or degrading treatment, extrajudicial killings, enforced disappearances, sexual and gender-based violence, persecution of and threats against members of civil society, journalists, members of the opposition and demonstrators, including young demonstrators, and restrictions on the freedoms of expression, peaceful assembly and association, creating a climate of intimidation and fear that paralyses the whole of society;

[1] A/HRC/33/37.

9. *Expresses grave concern* about the findings of the Commission of Inquiry on Burundi that there are reasonable grounds to believe that some of those violations may constitute crimes against humanity;[1]

4. *Also expresses grave concern* about the reports of a significant number of human rights violations and abuses committed by the Burundian defence and security forces, including the national intelligence service, the police and the armed forces, and the Imbonerakure, in a climate of impunity;

5. *Condemns* the practice of widespread impunity for human rights violations and abuses and related crimes, while noting that the few investigations launched by the Government have not yielded any credible results;

6. *Expresses concern* about the disappearance and suspension of a number of civil society organizations and political groups in Burundi, and about the intimidation and harassment of Burundian human rights defenders, most of whom have been forced into exile;

7. *Urges* the Government of Burundi to put an immediate end to all human rights violations and abuses, to release all persons arbitrarily arrested and detained, to ensure a safe and enabling space for the work of human rights defenders and civil society organizations, including by reviewing the legislation adopted in January 2017 on non-governmental and non-profit organizations, and to authorize all media outlets to resume freely their activities without harassment or intimidation;

8. *Strongly condemns* all public statements coming from inside or outside the country that incite violence or hatred towards different groups in Burundian society, in particular the rape chants, repeated by members of the Imbonerakure in various parts of Burundi and on various occasions, calling to impregnate or kill opponents;

9. *Welcomes* the public condemnation of those rape chants by officials of the National Council for the Defence of Democracy-Forces for the Defence of Democracy, and demands that the Government of Burundi and other parties refrain from making, and publicly condemn, any statements or actions that could exacerbate tensions and incite violence, including gender-based violence, and ensure that all those responsible for the resulting violence are held accountable, so as to take into account the best interests of the country and to respect fully the letter and the spirit of the Arusha Agreement, which is a touchstone for peace and democracy;

10. *Calls upon* the Government of Burundi to ensure the safety and the protection of its population, while fully respecting international humanitarian and human rights law, to respect, protect and guarantee all human rights and fundamental freedoms for all, including freedom of expression, in accordance with the State's international obligations, to adhere to the rule of law and to ensure those who commit unlawful acts of violence are held accountable in a transparent manner;

11. *Also calls upon* the Government of Burundi to take measures to ensure that the National Independent Human Rights Commission complies fully with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles);

12. *Reaffirms its call* on the Burundian authorities to conduct thorough and independent investigations of crimes involving serious violations and abuses of human

[1] See A/HRC/36/54.

rights, so that all perpetrators, regardless of their affiliation, are held to account before a court,

13. *Notes* the opening by the Prosecutor of the International Criminal Court in April 2016 of a preliminary examination into the situation in Burundi since April 2015, and stresses the relevance of the report of the Commission of Inquiry on Burundi to international accountability mechanisms,

14. *Urges* the Government of Burundi to resume, without delay, its full cooperation with the Office of the High Commissioner, including by providing full access and cooperation to the High Commissioner's country office in Bujumbura and ensuring the safety of its staff and premises, and to cooperate fully with the treaty bodies, including the Committee against Torture, and to stop without delay any reprisal against human rights defenders who are cooperating with international human rights mechanisms;

15. *Recalls* that all States Members of the Human Rights Council should uphold the highest standards in the promotion and protection of human rights and fundamental freedoms, notes the importance of cooperation with international human rights mechanisms as part of those efforts, and deplores the lack of respect shown by the Government of Burundi for those standards;

16. *Encourages* the Government of Burundi to cooperate, without preconditions, with the regionally led mediation, allowing an inclusive and genuine inter-Burundian dialogue to be convened immediately, involving all stakeholders, both inside and outside the country, who are convinced of the need for peaceful solutions and are committed to working to that end, and including the substantive participation of women, in order to reach a consensual and nationally owned solution that would aim to preserve peace, strengthen democracy, ensure the enjoyment of human rights for all in Burundi, and restore the country's prospects and capacity for development;

17. *Reiterates* its invitation to the Government of Burundi to respect its commitment, expressed in its letter to the President of the Security Council on 15 July 2016, to facilitate without delay the deployment of a United Nations police component, including 228 United Nations police officers, as foreseen by the Council in its resolution 2303 (2016), and urges the Government to guarantee unhindered access by United Nations staff to detention centres and detainees;

18. *Calls upon* the Burundian authorities to ensure equitable political processes and to enable a safe and open environment that is conducive to the holding of free, fair, inclusive and transparent democratic elections in accordance with the Arusha Agreement;

19. *Welcomes and supports* the ongoing efforts made at the regional and subregional levels, including by the East African Community and the Peace and Security Commission of the African Union, to monitor the human rights situation in Burundi and to contribute to its improvement;

20. *Welcomes* the work of the African Union human rights observers in Burundi, and urges the Government of Burundi to sign without further delay the memorandum of understanding with the African Union, which will allow the African Union human rights observers and military experts to operate fully in the country in fulfilment of their mandated responsibilities;

21. *Expresses* its deep concern about the difficult situation of the more than 417,000 Burundians who have fled the country and are currently settled in refugee camps in five neighbouring countries, and of more than 210,000 internally displaced persons, welcomes the efforts of host countries and the international community in providing humanitarian support to those persons, and notes with concern the pressure exerted on refugees to return to Burundi;

22. *Encourages* Member States to take into consideration the recommendations contained in the report of the Commission of Inquiry on Burundi,[4] including those relating to technical assistance to Burundi, as and when appropriate;

23. *Requests* the Commission of Inquiry on Burundi to present its report, including any necessary follow-up action, to the General Assembly at its seventy-second session;

24. *Recommends* that the General Assembly submit the report of the Commission of Inquiry on Burundi to the Security Council for its consideration and appropriate action, taking into account the relevant conclusions and recommendations of the Commission;

25. *Decides* to extend for a period of one year the mandate of the Commission of Inquiry on Burundi in order to deepen and continue its investigations, and requests the Commission to present an oral briefing to the Human Rights Council at its thirty-seventh and thirty-eighth sessions and a final report during an interactive dialogue at its thirty-ninth session and at the seventy-third session of the General Assembly;

26. *Urges* the Government of Burundi to cooperate fully with the Commission of Inquiry on Burundi, to authorize it to conduct visits to the country and to provide it with all the information necessary to fulfil its mandate;

27. *Requests* the Office of the High Commissioner to provide all the resources necessary to the Commission of Inquiry on Burundi to allow it to fulfil its mandate;

28. *Decides* to remain seized of the matter.